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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

SEP 17 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Calling Party Pays Service Offering) WT Docket No. 97-207
in the Commercial Mobile Radio Services)
)

COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.

Omnipoint Communications, Inc. (Omnipoint), by its attorneys, hereby files comments on the Commission's Declaratory Ruling and Notice of Proposed Rulemaking¹ in the above-captioned proceeding. As discussed herein, Omnipoint supports the comments filed today by the Personal Communications Industry Association (PCIA) concerning Calling Party Pays (CPP). In addition, Omnipoint offers specific comments on the Commission's proposed notification requirement. Omnipoint also wishes to make clear that, while it continues to strongly support CPP, it has come to realize that some of its earlier proposals are not the most effective way to implement such a system. CPP, as previously envisioned by Omnipoint and as proposed by the Commission in this rulemaking, is fraught with technical, regulatory, cost and consumer acceptance issues that make the concept unworkable. Accordingly, Omnipoint revises its position on CPP as discussed herein.

¹ Calling Party Pays Service Offering in the Commercial Mobile Radio Services, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 99-137, WT Docket No. 97-207 (rel. July 7, 1999) (NPRM).

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I. CPP MUST BE IMPLEMENTED IN PARALLEL WITH WIRELINE SERVICES

Omnipoint continues to strongly believe that if the public is to have the full benefit of wireless telephony and if two-way wireless telephony is to be a true competitive alternative to wireline local exchange service, CPP must become the norm in the United States and its implementation and operation must parallel wireline services, as it does in many foreign countries. Thus, as with wireline service, the calling party should pay for the call unless the called party agrees to pay for the call through an alternative access arrangement, such as 800 access.

If implemented properly, CPP has the ability to enhance local competition by establishing wireless carriers as a true alternative to wireline carriers. This, in turn, would increase consumer choices with respect to telecommunications services and reduce the cost of wireless, and possibly wireline, service. For this to happen, however, CPP must be implemented in a way that is widely accepted by consumers and cost effective for service providers.

As detailed in the study performed by The Strategis Group presented in the PCIA comments, many foreign countries have deployed CPP with resounding success following a wireline model. Conversely, as detailed in the White Paper produced by DETECON, Inc., also presented in the PCIA comments, CPP as proposed by the Commission in the NPRM will not be viable for a number of reasons, including the cumbersome notification process proposed by the Commission and the inability of CMRS providers to cost-effectively bill the calling party. Accordingly, Omnipoint urges the Commission to carefully consider the ramifications of departing from the international framework in implementing CPP.

II. THE COMMISSION SHOULD NOT ADOPT ITS PROPOSED NOTIFICATION

Omnipoint agrees with PCIA that any notification to consumers concerning CPP should be simple, unobtrusive and uniform. The notification mechanism proposed by the Commission, however, is not simple; it would be extremely obtrusive; and it would be costly and burdensome to carriers. In the NPRM, the Commission proposes that notification should be a verbal message provided by the CMRS provider to the calling party that includes:

1. notice that the calling party is making a call to a wireless phone subscriber that has chosen the CPP option and that the calling party will be responsible for payment of airtime charges;
2. identification of the CMRS provider;
3. the per minute rate and any other charges that the calling party will be charged by the CMRS provider; and
4. notice that the calling party will have an opportunity to terminate the call prior to incurring the charges.

The Commission believes there is a need for such an extensive notification because calling parties in many localities do not now receive a separate charge for placing calls to wireless service customers and, therefore, if CPP is implemented as proposed by the Commission, consumers could be unpleasantly surprised to receive charges for such calls. The Commission, however, fails to realize that these same consumers receive charges for many calls today, without prior notification of the charges. Most notable are intra-LATA, intra-NPA toll calls dialed on a seven-digit basis. In New Jersey, as an example, the incumbent Local Exchange Carrier, Bell Atlantic, provides "flat rate" service to its residential customers where local calls do not incur a specific charge. However, these free local calling areas are quite small, typically consisting of ten to fifteen towns in the immediate area of the caller's phone. Calls beyond these local calling areas, but still within the same NPA, are toll calls and, although dialed on a seven-digit basis just like a local call, incur toll charges. In New Jersey, these charges can be as high as \$0.42 for the

first minute and \$0.12 for each additional minute.² On these calls there is no notification of additional charges and there is no distinctive dialing pattern that would inform a caller that extra charges are to be incurred or accepted. For the Commission to consider a notification scheme for CPP that deviates from this already-accepted practice of billing the caller for additional charges without imposing intrusive notification would not be consistent with its intent to promote competition between wireline and wireless services.

The Commission should also be mindful of the extent any notification will have on the ability of CPP to offer a competitive, transparent alternative to wireline local exchange service. A lengthy announcement, as proposed by the Commission, would isolate and stigmatize CPP service as being different. In addition, if calling parties are forced to wade through inconvenient announcements to reach CPP customers, the ability of CPP to enhance competition in the LEC exchange market will be seriously compromised. As proposed, the notification for CPP calls would generate among consumers the same frustration that similar menu systems now generate for calls to retail and service companies and agencies.

Accordingly, rather than imposing a burdensome and costly notification, Omnipoint urges the Commission to implement CPP in such a way as to eliminate the need for such a notification. This can be accomplished by minimizing the cost of CPP and by implementing CPP in a manner parallel to wireline service. Then, notification could simply be handled with consumer education and information, for example, by including an explanation of CPP in the White Pages directories. Again, looking to the experience in other countries where CPP works,

² Bell Atlantic Yellow Pages for the Hackensack area (Area Code 201). Page 18 of the Bell Atlantic Customer Guide, Monday through Friday day rates for a call of 65 airline miles or longer.

no country has imposed any form of notification other than their equivalent of a distinctive NPA for calls to wireless subscribers.

If the Commission chooses to emulate the successful CPP experiences in other nations, it should consider assigning Easily Recognizable Numbering Plan Area Codes (ERC) to CPP service, as proposed by Omnipoint in its previous comments in this proceeding.³ ERCs should be allocated to each large scale CMRS carrier to be used exclusively in connection with that carrier's CPP service offering. Alternatively, the Commission should consider allocating a single ERC to a group of CMRS providers for CPP service options in large, geographical areas. An ERC mechanism would resolve the notification issue in a cost-efficient manner, allowing CPP services to compete with traditional wireline services.

III. CONCLUSION

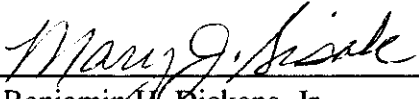
Based on the foregoing, Omnipoint urges the Commission to implement CPP in parallel with wireline services and to minimize its cost so that CPP can be an effective alternative to local

³ See, Omnipoint Comments dated December 16, 1997 and Omnipoint Comments dated May 8, 1998.

wireline service. In addition, Omnipoint urges the Commission not to adopt the proposed notification, which would be extremely burdensome and costly.

Respectfully submitted,

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